

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

UNITED STATE OF AMERICA,

vs.

GREGORY JEROME LEE,

DEFENDANT.

Case No. 5:16-cr-081-VEH-TMP

SENTENCING MEMORANDUM

Comes now the Gregory Jerome Lee, by and through his attorney, and moves this Court for a sentence of 30 years to be run concurrent with any state sentence now being served. Mr. Lee is borrowed on a writ from state custody and is serving a sentence that will not end until May 2032.

Mr. Lee has from the beginning of this case acknowledged the seriousness of the charges and never planned on any course other than to plead guilty. He offers no excuses for his behavior because there are none.

However, when deciding Mr. Lee's sentence, among the factors to be considered under 18 U.S.C. 3553(a) is the need to avoid unwarranted sentence disparities among defendants who have been found guilty of similar conduct. The "related case" that lead to Mr. Lee's indictment was United States vs. Edward, Case No. 1-11-cr-191-SEB-DKL arising in the United States District Court of Indiana, Indiana Division. In that case eleven men were charged with various crimes related to the sexual abuse and/or exploitation of children that included various child pornography offenses. All but two pled guilty to various charges (one defendant committed suicide while in custody). The two who did not plead guilty went to trial and were found guilty. While acknowledging that there are differences in backgrounds, prior conduct, and the like, Mr. Lee asks the Court to consider the sentences of those individuals. The custodial sentences received on guilty pleas were as follows:

Rick Leon (151 months)

Thomas Vaughn (135 months)

Robert Christopher Guillen (168 months)

Don Printup (168 months)

John Rex Powell (360 months)

David Bebeta (151 months)

John Richard Edwards (210 months)

Michael Fredette (327 months)

The two defendants who went to trial and were found guilty were sentenced as follows:

John David Gries (360 months)

James McCullars (Life)

In *United States v. Dean*, the Eleventh Circuit confirmed the reasonableness of a 30 year statutory maximum sentence wherein the defendant was convicted of sexually abusing his stepdaughter for more than fifteen years and filming the abuse to produce child pornography. 635 F.3d 1200, 1212 (11th Cir. 2011). See *United States v. Irey*, 612 F.3d 1160, 1166, (11th Cir. 2010) (where the court vacated a 210 month sentence and remanded with instructions to impose a 360 month sentence on a defendant who raped, sodomized, and sexually tortured more than fifty girls, some as young as four years of age over a four to five year period). Every case of child sexual abuse is horrible but the facts of the above cited cases are arguably worse than that of Mr. Dingler and the sentences imposed in these cases were all sufficient to ensure that the defendants were severely punished while not being greater than reasonably necessary to accomplish that goal.

A total thirty year sentence in this case is “sufficient, but not greater than necessary” to serve sentencing purposes under § 3553(a).

Respectfully submitted,

KEVIN L. BUTLER
Federal Public Defender
Northern District of Alabama

/s/Rick L. Burgess
RICK L. BURGESS
SENIOR LITIGATOR
Assistant Federal Public Defender
505 20th Street North, Suite 1425
Birmingham, Alabama 35203

(205) 208-7170
Rick_Burgess@fd.org

CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all parties of record.

/s/Rick Burgess